

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

UNITED STATES OF AMERICA)
) CASE NO. 3:05-CR-234-A
v.)
)
TYRONE WHITE)

MOTION FOR REVIEW OF ORDER BY MAGISTRATE

COMES NOW the Defendant TYRONE WHITE, by and through his attorney, Julian L. McPhillips, Jr., and respectfully moves this Honorable Court for review of Magistrate Judge Delores R. Boyd's ORDER (Doc. 42).

1. In her Order (Doc. 42), Magistrate Judge Boyd denied Defendant's Motion for Immediate Order (Doc. 38), stating that the government's concession that the Defendant is entitled to the requested discovery does not alone constitute good cause for an order granting the requested discovery.

2. Respectfully, the Defendant points to his prior arguments that the requested discovery is necessary to resolve the issue regarding the jury composition in this case, and that time is of the essence with trial only ten business days away. Obviously, the Defendant's challenge to the jury composition is a threshold issue, and should be resolved before trial begins. To have to wait for the next jury term on March 20, 2005, while shackled with electronic monitoring and unable to work to support his family, constitutes an undue hardship on the Defendant.

3. The United States Magistrate's language concerning the procedural history in the case, which is set for trial in December "expressly

pursuant to defendant's insistence" (Doc. 42, Para. 1) suggests that she regrets the undersigned's efforts to enforce this Defendant's right to a speedy trial, under the Speedy Trial Act and the United States Constitution.

4. The Honorable Magistrate Judge Delores Boyd further states that she will issue her rulings "in due course," and will not decide Defendant's Motion to Dismiss Indictment (Doc. 28), before the trial commences.

5. Respectfully, the requirements for speedy trial are imposed by the Speedy Trial Act and the United States Constitution. If the Congress and Supreme Court of the United States, as well as the Framers of the Constitution, all mandate that criminal defendants have a right to a speedy trial, then this Court is bound to do everything reasonably in its power to ensure that right, and certainly ought not frustrate the due administration of justice from a desire to work at its own pace.

WHEREFORE, above premises considered, the undersigned prays that this Honorable Court will review Defendant's Motions in this regard (Docs. 28, 29, 30 and 38), as well as Judge Boyd's Order (Doc. 42), and ORDER the Jury Clerk to make available the relevant records for inspection and copying, to allow adequate time to investigate and present the jury challenge before trial is set to commence.

RESPECTFULLY SUBMITTED this 16th day of November 2005,

TYRONE WHITE
Defendant

/s/ Julian L. McPhillips, Jr.
JULIAN L. McPHILLIPS, JR.
Attorney for Defendant
Alabama Bar No. MCP004
McPhillips Shinbaum, LLP
P.O. Box 64
Montgomery, AL 36101
(334) 262-1911

CERTIFICATE OF SERVICE

I certify that, on this date, I have served a copy of the foregoing upon the Government by electronic filing, and by mailing an additional courtesy copy of same to the Government's attorneys at the addresses below:

Todd A. Brown
Assistant United States Attorney
One Court Square, Room 201
P.O. Box 197
Montgomery, Alabama 36101

/s/ Julian L. McPhillips, Jr.
JULIAN L. McPHILLIPS, JR.
Attorney for Defendant